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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/529,330
Filing Date: October 07, 2005
Appellant(s): JATSCHKA, THOMAS

Janet D. Hood
(Reg. No. 61,142)
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 29, 2010 appealing from the Office action mailed July 07, 2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

Claims 10, 15-21, 23-28.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the

subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

6,148,205	COTTON	11-2000
2003/0003868	JUURIKKO	1-2003
6,029,074	IRVIN	2-2000

IEEE Computer Society, "802.15.1: IEEE Standard for Information technology - Telecommunications and information technology exchange between systems - Local and metropolitan networks; Part 15.1 Wireless Medium Access Control (MAC) and Physical Layer (PHY) Specification for Wireless Personal Area Networks (WPANS)", 14 JUNE 2002.

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

(a) Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 10 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cotton (U.S. Patent No. 6,148,205 – hereinafter as "Cotton") and in view of IEEE Standard 802.15.1-2002 (hereinafter as "IEEE_802.15") and in further view of Irvin (U.S. Patent 6,029,074 – hereinafter as "Irvin").

As to claim 10:

Cotton teaches a method for the initial registration (col. 2, lines 20-27) of a mobile terminal (col. 2, lines 28-33; Fig. 1 [104]) at an access point of a local communication network (col. 2, lines 28-33; Fig. 1 [102], [100]), the access point having a first radio transmitting (col. 2, line 59; Fig. 2 [216]) and receiving unit (col. 2, lines 59-67; Fig. [218]) operating at a first transmitting power for establishing communication between the mobile terminal and the local communication network (col. 2, lines 20-27), the method comprising:

- detecting the mobile terminal by the access point (col. 5, line 18; Fig. 6 [621]; "request for registration message");

- providing a signaling which includes transmitting to the mobile terminal after the detecting the mobile terminal by the access point (col. 5, line 30; Fig. 7 [712]); instructs

the mobile terminal to reduce a second transmission power of a second radio transmitting and receiving unit of the mobile terminal so that a transmit/receive process is only carried out in a near filed of the mobile terminal (col. 5, lines 32-46; Fig. 7 [716]; discloses placing units into a Registration State that operates at low RF power); and

- reducing the first transmitting power of the first radio transmitting and receiving unit after the signaling (col. 5, line 2-3; Fig. 6 [602], [606], [608]; "base station transitions into registration state wherein transmitted RF signal power level is reduced from the operational state"), the first transmitting power is reduced such that the communication between the mobile terminal and the local communication network is enabled exclusively within a near field of the access point (col. 2, line 33-36; Fig. 1 [102], [104]; "for access device to register it must be placed next to the base station"), the near field having a smaller area than a standard enabling area defined by all locations enabling the communication between the mobile terminal and the local communication network when the mobile terminal is present at the locations and the first radio transmitting and receiving unit is operating at the first non-reduced transmitting power (col. 5, line 37-40; Fig. 1 [102], [106]; "other access device not register because it is out of range of the base station").

Cotton fails to teach

- a first message;

- the first message indicates a received first signal level at the access point, the received first signal level formed as a received signal strength indicator value.

IEEE_802.15 teaches

- a first message (section 7.3; "power control optimizes output power with LMP commands);

- the first message indicates a received first signal level at the access point, the received first signal level formed as a received signal strength indicator value (section 9.3.18; Sequence 41 [LMP_decr_power_req], therefore power control message based on RSSI level; section 7.4.7; Figure 9; "RSSI compares received power with two threshold values", discloses a process to request a power decrease based on a parameter based on a comparison of a RSSI measurement to a threshold value to tell the terminal to increase or decrease it's transmitted output power by sending a RSSI based parameter).

At the time the invention made, it would have been obvious to a person having ordinary skill in the art to have combined IEEE_802.15 RSSI messaging with Cotton's method. The motivation to combine is as follows. The motivation to do so is provided by IEEE_802.15 (section 7.4.7). Power control based on RSSI parameter is part of the Bluetooth standard. Using Bluetooth power control method simplifies system design and has the benefits of using known industry standards to implement this function and allows this power control method to interact with Bluetooth compliant devices and systems.

Cotton when combined with IEEE_802.15 fails to teach artificially received first signal level being higher than a signal receiving level actually measured by the access point.

Irvin teaches artificially received first signal level being higher than a signal receiving level actually measured by the access point (col. 3, lines 6-27; col. 4, lines 62-67; col. 5, lines 1-7; discloses a power control function based on deliberately passing a power level control parameter to a device that is artificially too high in order to force the device to transmit at a lower power level, in this case the MAC attenuator parameter is analogous to the RSSI parameter).

At the time the invention made, it would have been obvious to a person having ordinary skill in the art to have combined Irvin with Cotton and IEEE_802.15. The motivation is found in Irvin (col. 1, lines 11-29; col. 3, lines 6-27). Irvin presents a method to force a terminal to reduce its transmitting power that is outside of a normal power control method as proposed by IEEE_802.15. By sending out artificial control parameters to force the terminal to transmit at a desired power level, the IEEE_802.15 method can still be used which allows the system to be compatible with known industry standards.

As to claim 21:

Cotton teaches an access point of a local communication network (col. 2, line 31; Fig. 1 [100], [102]).

Cotton when combined with IEEE_802.15 and Irvin teaches the remaining claim limitations as discussed in the claim 10 rejection above. The motivation to combine is the same as the claim 10 rejection above.

Claims 15-20 and 23-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cotton (U.S. Patent No. 6,148,205 – hereinafter as "Cotton") and in view of IEEE Standard 802.15.1-2002 (hereinafter as "IEEE_802.15") and in further view of Irvin (U.S. Patent 6,029,074 – hereinafter as "Irvin") and in further view of Juurikko (U.S. Patent Application 2003/0003868 – hereinafter as "Juurikko").

As to claim 15:

Cotton in view of IEEE_802.15 and Irvin teaches the method according to claim 10 (as discussed above).

Cotton when combined with IEEE_802.15 and Irvin fails to teach wherein the signaling includes a second message in order to instruct the user to move the mobile terminal into the near field of the access point.

Juurikko teaches wherein the signaling includes a second message in order to instruct the user to move the mobile terminal into the near field of the access point (para. [0023], [0029]; Fig. 1a; Fig. 1b; Fig. 2 [205=YES], [206]; discloses access point [103] sends a message to mobile [109] to guide mobile user back to the access point for better signal reception through use of the mobile display [110], therefore an instruction to the user to move the mobile terminal).

At the time the invention made, it would have been obvious to a person having ordinary skill in the art to have combined Juurikko with Cotton, IEEE_802.15 and Irvin. While Cotton acknowledges the need to move the terminal to the access point during registration (col. 2, lines 34-40), Juurikko provides a message to guide the user towards the access point and makes for a more efficient registration process.

As to claim 16:

Cotton in view of IEEE_802.15, Irvin and Juurikko teaches the method according to claim 15 (as discussed above).

Cotton when combined with IEEE_802.15, Irvin and Jurrikko teaches wherein the second message is re-transmitted to the mobile terminal if the mobile terminal has not been moved into the near field of the access point within a specified time period after receiving the second message by the mobile terminal (IEEE_802.15: section 8.5.3 ARQ Scheme; "packets are retransmitted until acknowledgement ... is returned ... or timeout is exceeded").

At the time the invention made, it would have been obvious to a person having ordinary skill in the art to have combined IEEE_802.15 with Cotton. The motivation to do so is that ARQ is commonly used in data communications and allows for an efficient retransmission scheme. It also has the benefit of using a known industry standard to implement this function and allows this method to interact with Bluetooth compliant devices and systems.

As to claim 17:

Cotton in view of IEEE_802.15, Irvin and Jurrikko teaches the method according to claim 16 (as discussed above) and further teaches wherein the reduced first transmission power is increased at least temporarily to a level corresponding to the non-reduced transmission power (col. 5, line 1; Fig. 6 [608]; "registration state ... reduced RF power"; col. 5, lines 10-11; Fig. 6 [606]; "base station changes to operation state";

with non response of terminal, base station reverts to operational transmission power to increase coverage range for retry).

As to claim 18:

Cotton in view of IEEE_802.15, Irvin and Jurrikko teaches the method according to claim 16 (as discussed above).

Cotton when combined with IEEE_802.15, Irvin and Jurrikko teaches wherein the second message is repeatedly re-transmitted (IEEE_802.15: section 8.5.3 ARQ Scheme; "packets are retransmitted until acknowledgement ... is returned ... or timeout is exceeded"). The motivation to combine is given in the claim 16 rejection above.

As to claim 19:

Cotton in view of IEEE_802.15 and Irvin teaches the method according to claim 10 (as discussed above).

Cotton when combined with IEEE_802.15 and Irvin fails to teach wherein the first and second transmitting and receiving units operate according to a short-range radio standard.

Juurikko teaches wherein the first and second transmitting and receiving units operate according to a short-range radio standard (para. [0021]; Fig. 1a [103], [109]).

At the time the invention made, it would have been obvious to a person having ordinary skill in the art to have combined Juurikko's short range standard into Cotton, IEEE_802.15 and Irvin's method. The motivation to do so is provided by Juurikko (para. [0002]). A short-haul standard allows for operation at low transmission power which restricts the range to within a few meters and it also conserves battery life of mobile

units. Using a known standard to operate a system, reduces the development cost and shortens the design time to develop a system since it allows the use of commercially available parts and software in the design.

As to claim 20:

Cotton in view of IEEE_802.15, Irvin and Juurikko teaches the method according to claim 19 (as discussed above).

Cotton when combined with IEEE_802.15, Irvin and Juurikko teaches wherein the short-range radio standard comprises a Bluetooth specification (para. [0021]). The motivation to combine is the same as given in the claim 19 rejection above.

As to claim 23:

Cotton in view of IEEE_802.15 and Irvin teaches the access point according to claim 21 (as discussed above).

Cotton when combined with IEEE_802.15, Irvin and Juurikko teaches the remaining claim limitations as discussed in the claim 15 rejection above. The motivation to combine is the same as the claim 15 rejection above.

As to claim 24:

Cotton in view of IEEE_802.15, Irvin and Juurikko teaches the access point according to claim 23 (as discussed above).

Cotton when combined with IEEE_802.15, Irvin and Juurikko teaches the remaining claim limitations as discussed in the claim 16 rejection above. The motivation to combine is the same as the claim 16 rejection above.

As to claim 25:

Cotton in view of IEEE_802.15, Irvin and Juurikko teaches the access point according to claim 24 (as discussed above) and teaches the remaining limitations of the claim as discussed n the claim 17 rejection above.

As to claim 26:

Cotton in view of IEEE_802.15, Irvin and Juurikko teaches the access point according to claim 24 (as discussed above).

Cotton when combined with IEEE_802.15, Irvin and Juurikko teaches the remaining claim limitations as discussed in the claim 18 rejection above. The motivation to combine is the same as the claim 16 rejection above.

As to claim 27:

Cotton in view of IEEE_802.15 and Irvin teaches the access point according to claim 21 (as discussed above).

Cotton when combined with IEEE_802.15, Irvin and Juurikko teaches the remaining claim limitations as discussed in the claim 19 rejection above. The motivation to combine is the same as the claim 19 rejection above.

As to claim 28:

Cotton in view of IEEE_802.15, Irvin and Juurikko teaches the access point according to claim 27 (as discussed above).

Cotton when combined with IEEE_802.15, Irvin and Juurikko teaches the remaining claim limitations as discussed in the claim 20 rejection above. The motivation to combine is the same as the claim 20 rejection above.

(10) Response to Argument

Appellant's remarks have been considered but are not deemed persuasive for the following reasons.

A. The rejection of claims 10 and 21 under 35 U.S.C. § 103(a) as being obvious over Cotton (USPN 6148205) [Cotton] in view of IEEE Standard 802.15.1-2002 [IEEE- 802.15] in further view of Irvin (USPN 6,029,074) [Irvin]

a) Independent claims 10 and 21

The appellant argues that for claims 10 and 21, Cotton when combined with IEEE-802.15 and Irvin do not teach "the first message indicates an artificially received first signal level at the access point, the artificially received first signal level being higher than a signal receiving level actually measured by the access point, the artificially received first signal level formed as a received signal strength indicator value, the first message instructs the mobile terminal to reduce a second transmission power of a second radio transmitting and receiving unit of the mobile terminal so that a transmit/receive process is only carried out in a near field of the mobile terminal" (emphasis added by applicant).

The appellant argues that:

- Cotton (primary reference which teaches reducing TX power to reduce operations within the near field of the mobile terminal) is directed to an in-house wireless system which has a small near field area in which to operate.

- Irvin (which is used to teach the artificially high signal level to force the mobile to reduce its TX power level) is directed to a cellular system and that the reason for TX

power reduction is to conserve battery power and not reduce the area of the near field for secure communications.

- Therefore it would not have been obvious to have combined these two references since both inventions are not directed towards reducing the operation of the devices to the near field of the mobile terminal.

The examiner respectfully disagrees for these reasons:

- Cotton teaches reducing the mobile TX power to reduce the operating area of the near field of the mobile terminal (col. 5, lines 32-46; Fig. 7 [716]). The fact that Cotton is directed to an in-house wireless system is relevant since Cotton's system meets the requirements of the claim which is a mobile terminal in a local communication network.

- IEEE-802 is used to teach sending the messaging for the mobile TX (section 7.3; section 9.3.18; section 7.4.7; Fig. 9) power control but did not teach sending a false signal level that is too high to force the mobile to reduce its transmit power. Irvin is used to augment this teaching.

- Irvin is only used to teach sending a artificially high signal level as a parameter in a transmit power feedback control loop to a mobile device to force it to transmit at a lower power level (col. 3, lines 6-27; col. 4, lines 62-67; col. 5, lines 1-7).

The examiner believes that it would have been obvious to have combined these references since:

- Cotton teaches reducing the power to reduce operations within the near field of the mobile;

- IEEE-802 teaches a TX power control system via messaging; and

- Irvin also teaches a TX power control method to force TX power reduction through the use of transmitting an artificially high received signal level to the mobile to make the mobile think it is transmitting at too high a power level and reducing its TX power. The fact that Irvin is directed to a cellular system or is not directed towards reducing the operating area to the near field of the mobile device is relevant since Irvin is used only to teach only a TX power level control method in a wireless system (emphasis added).

B. The rejection of claims 15-20 and 23-28 under 35 U.S.C. § 103(a) as being obvious over Cotton (USPN 6148205) [Cotton] in view of IEEE Standard 802.15.1-2002 [IEEE-802.15] view of Irvin (USPN 6,029,074) [Irvin] in further view of Juurikko (US2003/0003868)

a) Dependent claims 19 and 27

The appellant argues that:

- claims 19 and 27 are directed to a short-range radio standard; and

- Irvin is directed to a cellular system and conforms to cellular standards such as GSM or AMPS which are not compatible with short-range radio standards.

Therefore it would not have been obvious to have used Irvin since it is not directed towards a short-range radio system because it is operated in different manner from short-range radio systems.

The examiner respectfully disagrees for these reasons:

- claims 19 and 27 cite "units operate according to a short-range radio standard";

- the primary reference Cotton (col. 2, lines 28-33) and the secondary reference Juurikko (para. [0021]; Fig. 1a [103], [109]) are directed towards short-range radio systems and only Cotton and Juurikko are used to teach the body of claims 19 and 27 (emphasis added); and

- Irvin, when combined with Cotton and IEEE-802 is used only to teach the preambles of these claims (the method of claim 10 for claim 19 and the access point according to claim 21 for claim 27) and not the body of the claim which is taught by Cotton and Juurikko (emphasis added).

The use of Irvin as a reference is defended in the preceding response to Argument A above. Irvin is only used to teach sending a artificially high signal level as a parameter in a transmit power feedback control loop to a mobile device to force it to transmit at a lower power level (col. 3, lines 6-27; col. 4, lines 62-67; col. 5, lines 1-7) and the fact that Irvin is directed to a cellular system instead of a short-range radio system is not relevant since Irvin is used only to teach only a TX power level control method in a wireless system (emphasis added).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/Daniel Nobile/

Examiner, Art Unit 2617

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/George Eng/

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